



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.[MD].No.14112 of 2016
and
W.M.P.(MD).No.10463 of 2016

S.Jeyakumar

: Petitioner

Vs.

1.The District Collector,
Sivagangai District.

2.The Block Development Officer (Panchayat),
Ilaiyangudi Union,
Sivagangai District.

: Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to construct the water over tank in Poolangudi Village, Sivagangai District, in existing place as per the administrative sanction issued by the 1st respondent in his proceedings in Na.Ka.A3/.889/2015, dated 29.01.2016 by considering the petitioner's representation dated 22.07.2016.

For Petitioner : Mr.V.Panneer Selvam
For respondents : Mr.M.Rajarajan
Government Advocate

ORDER

[Order of the Court was made by **S.NAGAMUTHU, J.**]

The petitioner is a resident of Poolangudi Village, Sivagangai District. The respondents have proposed to construct a overhead tank for drinking purpose, as per Na.Ka.A3/889/2015, dated 29.01.2016 on the file of the first respondent. According to the petitioner, earlier overhead tank, which is not in use now, was constructed in Survey No.291/1 at Poolangudi Village and the proposed overhead tank should be constructed at the same place and not at a different place. Hence, he has come up with this Writ Petition seeking a direction to the respondents to construct the overhead water tank in the existing place.



2. We have heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents. We have also perused the records carefully.

3. It is brought to the notice by the learned Government Advocate that in respect of Survey No.291/1, a civil suit in O.S.No.65 of 1999 was filed by Poolangudi Poovilu Kandha Iyyanar Temple, claiming title and also for injunction. That suit was decreed by the judgment and decree dated 12.11.1999. As against the same, some villagers filed appeals in A.S.Nos.18 and 38 of 2000 and the same were allowed and the judgment and decree of the trial Court was reversed. As against the same, second appeals have been filed by the temple before this Court and the same is pending S.A.Nos.1684 and 1685 of 2003.

4. A perusal of the proceedings of the Civil Court would go to show that virtually there is a dispute in respect of the title for the said property. It is because of this reason, the respondents have got no proposal to construct the overhead tank in the said survey number and according to the learned counsel for the respondents, now the respondents are going to construct the overhead tank in oorani promboke land.

5. Already this project has been delayed by nine months because of this unnecessary litigation. In our considered view, drinking water facility is absolutely essential for the villagers, which cannot be stalled by unscrupulous litigation. The petitioner cannot insist that the proposed overhead tank should be constructed only in Survey No.291/1, as there is a dispute in respect of title for the said land. When that be so, it may be not possible for the respondents to make any construction on the said survey number. So far as the place chosen by the respondents to construct the overhead tank, there can be no objection, because after all it is for public purpose.

6. In such view of the matter, we find no merit at all in this matter. Hence, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (WRIT)

/True Copy/

Sub Assistant Registrar

gcg

To

<https://hservicecourts.gov.in/services>
The District Collector,
Sivagangai District.



2.The Block Development Officer (Panchayat),
Ilaiyangudi Union,
Sivagangai District.

+1cc to Mr.V.PANNERSELVAM ,Advocate, Sr.No: 52065

WEB COPY

+1cc to M/S Special Government Pleader, Sr No. 51965

JAM/SKS-RR/27.09.16 /3P-5C

Order made in
W.P.[MD].No.14112 of 2016

Dated: 12.09.2016